

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
AMPARO GUERRA,

Plaintiff,

12-CV-6750 (CS) (PED)

- against -

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
-----X

**ORDER
ADOPTING REPORT
AND RECOMMENDATION**

Seibel, J.

Before the Court is the Report and Recommendation of Magistrate Judge Paul E. Davsion dated May 31, 2013 (the “R&R”), (Doc. 17), in which he recommends that this Court grant Defendant’s motion to dismiss the instant case for lack of subject-matter jurisdiction. Familiarity with the motion, prior proceedings, and the R&R is presumed.

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Parties may raise objections to the magistrate judge’s report and recommendation, but they must be “specific,” “written,” and submitted “[w]ithin 14 days after being served with a copy of the recommended disposition.” Fed. R. Civ. P. 72(b)(2); *accord* 28 U.S.C. § 636(b)(1)(C).

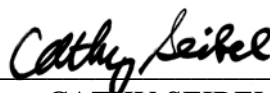
Insofar as a report and recommendation deals with a dispositive motion, a district court must conduct a *de novo* review of those portions of the report or specified proposed findings or recommendations to which timely objections are made. 28 U.S.C. § 636(b)(1)(C); *see* Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.”). The

district court may adopt those portions of a report and recommendation to which no timely objections have been made, provided no clear error is apparent from the face of the record. *See Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985); Fed. R. Civ. P. 72 advisory committee's note (b).

The docket sheet reflects that Plaintiff was mailed a copy of the R&R at the Townsend Avenue address provided. No objections to the R&R have been recieved. I have reviewed the R&R and find no error, clear or otherwise. Accordingly, I adopt the R&R as the decision of the Court, and dismiss Plaintiff's Complaint without prejudice. The Clerk of Court is respectfully directed to terminate the pending Motion (Doc. 13), and close the case.

SO ORDERED.

Dated: July 1, 2013
White Plains, New York

A handwritten signature in black ink, reading "Cathy Seibel", is positioned above a horizontal line.

CATHY SEIBEL, U.S.D.J.